

**Application Checklist**

Judge Andrew M. Edison

Case Number: **4:21mj0518**☐ Check if emergency

Type of application: (check all that apply)

<input type="checkbox"/> Criminal complaint <input checked="" type="checkbox"/> Arrest warrant+ <input type="checkbox"/> Search/seizure warrant+ (indicate type of search):  	<input type="checkbox"/> Section 2703(d) order (historical info, not location) <input type="checkbox"/> Pen register/trap & trace order (not location) <input type="checkbox"/> Administrative inspection warrant <input type="checkbox"/> Forfeiture <input type="checkbox"/> Other (specify): _____
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+All fields in warrants must be populated: i.e., date; city and state; judge's name and title; date the search warrant expires.

**Sworn to**

- ☐ in person      ☒ by telephone: use form AO 106A (Application for a Warrant by telephone); and supporting affidavit must indicate that it was sworn to telephonically

Offense specified: (check all that apply)

- |   |   |                                     |                                      |
|---|---|-------------------------------------|--------------------------------------|
| <input type="checkbox"/> Drugs                  | <input checked="" type="checkbox"/> Fraud                   | <input type="checkbox"/> Weapons    | <input type="checkbox"/> Immigration |
| <input type="checkbox"/> Sex offenses           | <input type="checkbox"/> Theft                              | <input type="checkbox"/> Kidnapping | <input type="checkbox"/> Tax         |
| <input type="checkbox"/> Extortion/Racketeering | <input type="checkbox"/> Fugitive/Escape/Supervised release |                                     |                                      |
| <input type="checkbox"/> Computer crime         | <input type="checkbox"/> Terrorism                          |                                     |                                      |
| <input type="checkbox"/> Other (specify): _____ |   |                                     |                                      |

Sealing request: ☐Delayed notice request ☐Duration: ☐ 30 days    ☐ 90 days    ☐ 180 days\*    ☐ Other \_\_\_\_\_

\*Note: no application will be sealed for more than 180 days without a statutory reference or compelling circumstance; proposed order must include the duration.

**The Court will not sign any proposed orders that do not include the duration.**

- Grounds: ☐ endangering life or physical safety of individual  
☐ flight from prosecution  
☐ evidence destruction/tampering  
☐ witness intimidation  
☐ otherwise seriously jeopardizing investigation or unduly delaying trial

☐ Initial request      ☐ Previous extensions (# and date) \_\_\_\_\_


Has this application been previously submitted for consideration?

☐ Yes      ☒ No

Date: \_\_\_\_\_ Action Taken: \_\_\_\_\_ Judge: \_\_\_\_\_

Agent's name: WAYNE PALOMAR Phone#: 281-224-1011**I certify that the attached has been reviewed for compliance with Rules 3, 4, 4.1, and/or 41 of the Federal Rules of Criminal Procedure.**AUSA Printed Name: JAY HILEMAN Phone#: 713-703-9308

AUSA Signature: \_\_\_\_\_

  
 JAY HILEMAN  
 Assistant United States Attorney

Revised 9/18/2018

## UNITED STATES DISTRICT COURT

for the  
Southern District of TexasUnited States Courts  
Southern District of Texas  
FILED

March 11, 2021

Nathan Ochsner, Clerk of Court

United States of America  
v.

Kelly Eugene TOLIVER

Case No.

**4:21mj0518**

Defendant(s)

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of March 10, 2021 in the county of HARRIS in the  
SOUTHERN District of TEXAS, the defendant(s) violated:

Code Section

Offense Description

18 USC 1028

Identity Fraud

18 USC 1708

Possession of Stolen Mail

18 USC 1029

Credit Card Fraud

This criminal complaint is based on these facts:

See affidavit

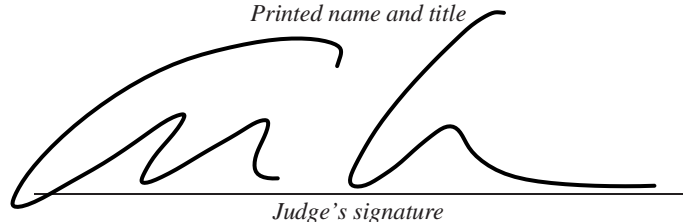
☒ Continued on the attached sheet.

Complainant's signature

Wayne Palomar, Postal Inspector

Printed name and title

Sworn to me telephonically.

Date: 3/11/21

Judge's signature

City and state: Houston, TX

Andrew M. Edison, Magistrate Judge

Printed name and title

### AFFIDAVIT IN SUPPORT OF ARREST WARRANT

1. I, United States Postal Inspector Wayne G. Palomar, have been employed by the U.S. Postal Inspection Service since 2001. I am currently assigned to the Financial Crimes Team in Houston, TX and have received specialized training in numerous Postal crimes, primarily those involving identity theft, bank fraud and credit card fraud related offenses. I am familiar with how thieves use stolen or counterfeited Postal Arrow Keys to access mailboxes to steal U.S. Mail. Also, I am familiar with how identity thieves use victims' information to obtain and credit/debit cards and checks stolen from the U.S. Mail for financial gain.
2. The information set forth in this Affidavit is based upon Affiant's personal knowledge and/or information provided to Affiant by other law enforcement officers, fraud investigators, and other individuals the undersigned believes to be reliable and credible.
3. Because this Affidavit is being submitted for the limited purpose of supporting a criminal complaint, Affiant has not included each and every fact concerning this investigation. Affiant has set forth only the facts believed to establish probable cause that **Kelly Eugene TOLIVER** has committed violations of federal law.
4. During the months of September 2020 to March 2021, the U.S. Postal Inspection Service and Katy Police Department received numerous complaints of mail theft from the Greater Houston/Katy Area, specifically addresses in Harris County, Katy, TX. These complaints involved Apartment panel and Community mailboxes that were accessed with counterfeit Postal Arrow Keys and mail was stolen to include; packages, financial statements, credit cards and checks. Mail theft victims Personal Identifying Information (PII) were used to activate victim's credit cards without permission of the account holders and fraudulent transactions were made.
5. On February 27, 2021, (Katy P. D. Case #2021-6860) surveillance video (approximately 0241hrs) showed an unknown White Male (W/M) on a mountain **bicycle** ride up to a Community Mailbox, in the Heritage Meadows Subdivision, Katy, TX and open the mailbox doors using what appears to be a Postal Arrow Key. The W/M opened the door and pulled out packages. He then secured them into a bag that was attached to the back of the bike's rack and rides away.
6. On March 5, 2021, (Katy P.D. Case #2021-7924) surveillance video (approximately 0445hrs) showed the same unknown W/M drive up in a **black 4 door sedan** (later identified as 2021 Toyota Corolla, bearing Texas temporary registration 33928N4) and park in front of the same Community Mailbox (in paragraph 5) in the Heritage Meadows Subdivision, Katy, TX. The W/M exits the vehicle from the driver's side and opens the entire right front door of the mail box, using what appears to be a Postal Arrow Key, then rakes mail onto the ground. The W/M is there for approximately 2 minutes. The W/M then closes the mail box, opens the passenger front door and places the mail that has collected on the ground into the front passenger seat and then drives away.
7. Katy P.D. Detective Orsak investigated a complaint (Case #2021-8110) filed by **Victim M.B.** regarding a **Credit One Bank Credit Card ending in 2374**. The card was stolen from the mail and used without her permission at Walmart store number 3226, (Katy Mills Walmart located at 25108 Market Place Drive), on March 5, 2021, for the amount of \$239.90. Security camera footage depicts a W/M, bald head, black facemask, and an olive green shirt in the self-check-out registers. The W/M purchased items to include an AMEX gift card (gift card redemption history showed a transaction at the Studio 6 Hotel, 1332 Katy Fort Bend Rd, Katy, TX 77493). Hotel occupant information listed the names "Ashley CONLEY" and "Kelly **TOLIVER**." Hotel stay history at the Studio 6 Hotel was over 180 days. A criminal history check showed TOLIVER had an active arrest warrant for an Austin Parole Board parole violation for **Burglary of a Habitation Warrant # 06649105**. The hotel provided video depicting **TOLIVER** (Bald W/M) in the hotel lobby with a mountain bicycle.
8. On March 10, 2021, Katy P.D. Officers (Case #2021-8247) conducted surveillance in the parking lot Studio 6 Hotel for the wanted subject. At approximately 2030hrs, Officers observed **TOLIVER** exit the hotel and approach a **black 2021 Toyota Corolla, bearing Texas temporary registration 33928N4**, click the key fob to unlock the doors and attempt to enter vehicle. Officers approached to arrest him for the warrant and TOLIVER evaded arrest by running away (later apprehended). TOLIVER had thrown a green camouflage backpack (which was later recovered). Upon inventory of the backpack, a **counterfeit Postal Arrow Key** was recovered along with a long screwdriver (pry bar like) and credit/debit cards in other people's

names. TOLIVER made a res gestae statement to officers at the scene that the drugs in the hotel room were his and not CONLEY's. Officers obtained consent from CONLEY to search Hotel Room #325 and recovered; narcotics, rifled and unrifled mail, personal/business checks, financial statements, credit cards attached to mailing placards, IRS documents, a small notebook with the personal identifying information (PII-name, DOB, SSN, ID#'s, addresses) of others, black cellphone and a laptop. The notebook contained the PII of **Victim M.B.** CONLEY possessed two credit cards in (other people's names) which she stated were **TOLIVER's**. An inventory search of the **black 2021 Toyota Corolla, bearing Texas temporary registration 33928N4** yielded; a black wallet (from the center console) containing the **Credit One Bank Credit Card ending in 2374** (belonging to Victim M.B.) and **18** credit/debit cards, **3** TX ID/DL's (in other people's names).

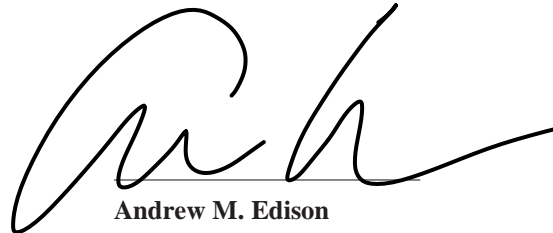
9. On that same date, a recorded Mirandized Interview was conducted with TOLIVER at the Katy Police Department. During the course of the interview, TOLIVER stated the mail in the room was his and CONLEY had nothing to do with it (mail or drugs). They lived in the hotel in Katy for over 8 months (from the Austin area). He supported them and would ride his bicycle and used the counterfeit Postal Arrow Key to steal mail. He stole mail in the Katy area and rode his bike as far as Fry Road. He later stole the **black Toyota 4 door sedan** (from Bella Terra, keys left in car) and used it to steal mail (refer to paragraphs 5 and 6). He would activate credit cards using his laptop and search for their PII on people database websites. He bought gift cards using the stolen credit cards and bought food. He would use the money from the credit cards and gift cards to pay for the hotel and estimated spending over \$13,000 for the hotel room. He failed to show up for parole visits after his ex-wife left with his child and he knew he had a warrant.
10. Based on the forgoing information, Affiant has reason to believe and does believe that, on or about March 10, 2021, **Kelly Eugene TOLIVER** committed the offense(s) of Identity Fraud, 18 USC 1028, Possession of Stolen Mail, 18 USC 1708 and Credit Card Fraud, 18 USC 1029.



**Wayne C. Palamar**

**United States Postal Inspector**

Sworn and Subscribed to me telephonically this 11<sup>th</sup> day of March, 2021, and I find probable cause.



**Andrew M. Edison**

**United States Magistrate Judge**

**Southern District of Texas**

## UNITED STATES DISTRICT COURT

for the

Southern District of Texas

United States of America

v.

Kelly Eugene TOLIVER

Case No.

**4:21mj0518***Defendant***ARREST WARRANT**

To: Any authorized law enforcement officer

**YOU ARE COMMANDED** to arrest and bring before a United States magistrate judge without unnecessary delay*(name of person to be arrested)* Kelly Eugene TOLIVER,

who is accused of an offense or violation based on the following document filed with the court:

☐ Indictment    ☐ Superseding Indictment    ☐ Information    ☐ Superseding Information    ☒ Complaint  
☐ Probation Violation Petition    ☐ Supervised Release Violation Petition    ☐ Violation Notice    ☐ Order of the Court

This offense is briefly described as follows:

Identity Fraud (18 USC 1028)

Mail Theft (18 USC 1708)

Credit Card Fraud (18 USC 1029)  
(see affidavit)Date: 3-11-21
  
*Issuing officer's signature*
City and state: HOUSTON, TXANDREW M. EDISON, Magistrate Judge*Printed name and title***Return**
 This warrant was received on *(date)* \_\_\_\_\_, and the person was arrested on *(date)* \_\_\_\_\_  
 at *(city and state)* \_\_\_\_\_.

Date: \_\_\_\_\_

*Arresting officer's signature**Printed name and title*

**This second page contains personal identifiers provided for law-enforcement use only and therefore should not be filed in court with the executed warrant unless under seal.**

*(Not for Public Disclosure)*

Name of defendant/offender: \_\_\_\_\_

Known aliases: \_\_\_\_\_

Last known residence: \_\_\_\_\_

Prior addresses to which defendant/offender may still have ties: \_\_\_\_\_

Last known employment: \_\_\_\_\_

Last known telephone numbers: \_\_\_\_\_

Place of birth: \_\_\_\_\_

Date of birth: \_\_\_\_\_

Social Security number: \_\_\_\_\_

Height: \_\_\_\_\_ Weight: \_\_\_\_\_

Sex: \_\_\_\_\_ Race: \_\_\_\_\_

Hair: \_\_\_\_\_ Eyes: \_\_\_\_\_

Scars, tattoos, other distinguishing marks: \_\_\_\_\_

History of violence, weapons, drug use: \_\_\_\_\_

Known family, friends, and other associates (*name, relation, address, phone number*): \_\_\_\_\_

FBI number: \_\_\_\_\_

Complete description of auto: \_\_\_\_\_

Investigative agency and address: \_\_\_\_\_

Name and telephone numbers (office and cell) of pretrial services or probation officer (*if applicable*): \_\_\_\_\_

Date of last contact with pretrial services or probation officer (*if applicable*): \_\_\_\_\_